60 Md. 26, 45 Am. Rep. 706; *Union Mut. Life Ins. Co.* v. *Hanford*, 143 U. S. 187, 12 Sup. Ct. 437, 36 L. ed. 118; *Bank* v. *Waterman*, 134 Ill. 461; *Johnston* v. *Paltzer*, 100 Ill. App. 171; *Stove Works* v. *Caswell*, 48 Kan. 689, 16 L. R. A. 85, and note; *Merriam* v. *Miles*, 54 Neb. 566, 74 N. W. 861; *Metz* v. *Todd*, *supra*, *Nelson* v. *Brown*, *supra*; *Smith* v. *Davis*, 90 Mo. App. 583. See also 15 HARV. LAW REV. 398.

MUNICIPAL CORPORATION—ADVERSE POSSESSION—PUBLIC AND PRIVATE USE.—Injunction to enjoin interference with plaintiff's possession of certain property which the city has ordered to be opened and improved as a street. In 1857 the alleged street was platted and dedicated to the public, and the defendant corporation averred that the right of the city in the street had never been abandoned. The plaintiff replied that in 1865, he, being part owner of a certain plat, attempted to vacate a part thereof, including the street in question, but by a mistake in the written instrument, the vacation did not include this street. He further claimed that, without knowledge of this mistake, he entered into possession of the land originally platted as a street, enclosed it with fences, and has ever since remained in possession, with the knowledge of and without objection by the city. *Held*, that whatever right the city had in the use of the street had been abandoned. *Weber* v. *Iowa City* (1903), — Ia. —, 93 N. W. Rep. 637.

The decisions of the courts as to whether the title to streets can be acquired against a municipal corporation by adverse possession, have been conflicting, and the Iowa courts have held with those who affirm that an individual cannot acquire good title by adverse possession for the statutory period. *City of Waterloo* v. *Union Mill Co.*, 72 Ia. 437, 34 N. W. Rep. 197. See AM. & ENG. ENC. OF LAW, Vol. I, p. 875, and also note and cases cited. But the court in this case draws a distinction between the case last cited and this one, and declares that a city is not compelled to open a street which has been dedicated to it for that purpose; and hence, that though non-user is not in itself sufficient to enable an individual to acquire title, yet when it is accompanied by an actual and notorious occupation of that individual, an abandonment by the city is presumed. In other words, while the maxim "*Nullum tempus occurrit regi*" applies to a municipal corporation in the exercise of its public functions, yet where it has not devoted the property to a public use, the statute of limitations may run against it the same as any other personality. This distinction has been recognized in a number of cases. *City of Chicago* v. *Middleborough*, 143 Ill. 265; *Ames* v. *San Diego*, 101 Cal. 390; *City of Belford* v *Willard*, 133 Ind. 562; *Mowry* v. *City of Providence*, 10 R. I. 52; *Simplot* v. *Chicago*, *M. & St. P. R. R. Co.*, 16 Fed. Rep. 350; DILLON ON MUNICIPAL CORPORATIONS (4th ed.), Vol. 2, sec. 675. In several states the acquisition of property by adverse possession, as against municipal corporations, is now regulated by statute. Kentucky statutes (1899), sec. 2546. For general discussion of the subject see *Whiting* v. *Campbell*, 12 W. Va. 36.

MUNICIPAL CORPORATIONS—RIPARIAN RIGHTS OF A MUNICIPALITY.—Action to recover damages for diminution of plaintiff's water supply. The city of Canton is situated between two forks of a creek, whose waters it used for domestic, manufacturing and commercial purposes, with the result that the plaintiff, a lower riparian owner, was compelled to shut down his grist mill during the dry seasons. *Held*, that a municipality situated on a natural flowing stream, is, in its corporate capacity, a riparian owner, having the rights, and subject to the liabilities of such owner. *City of Canton* v. *Shock* (1902), 66 Ohio St. 19, 63 N. E. Rep. 600, 58 L. R. A. 637.

The riparian rights in a stream pertain to the land abutting on the stream; they pass with the title to the property, and are the same, whether a natural